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Proposed Attorneys for Debtor

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

GATA III LLC,

Debtor.

Case No. 21-10690-nmc
Chapter 11

Date: March 23, 2021
Time: 9:30 a.m.

**DECLARATION OF ZACHARIAH LARSON, ESQ. IN SUPPORT OF
THE APPLICATION FOR ORDER APPROVING THE EMPLOYMENT OF
LARSON & ZIRZOW, LLC AS GENERAL REORGANIZATION COUNSEL
FOR DEBTOR RETROACTIVE TO THE PETITION DATE**

I, Zachariah Larson, Esq., hereby declare as follows:

1. I am over the age of 18 and am mentally competent. I have personal knowledge of the facts in this matter and if called upon to testify, could and would do so. I make this declaration in support of the *Application for Order Approving the Employment of Larson & Zirzow, LLC as General Reorganization Counsel for Debtor Retroactive to the Petition Date* (the "Application"). Unless otherwise indicated, all capitalized terms herein shall have the same meaning as ascribed to them in the Application.

2. I am an attorney licensed to practice law in the State of Nevada, and am admitted to practice law before the courts of Nevada. I am a shareholder with the law firm of Larson & Zirzow, LLC ("L&Z"), which maintains offices at 850 E. Bonneville Ave., Las Vegas, Nevada 89101. I am the principal attorney with L&Z assigned to the representation of Gata III LLC, a

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1 Nevada limited liability company, as debtor and debtor-in-possession (the “Debtor”), in the
2 above-referenced bankruptcy case.

3 Introduction

4 1. Gata III LLC is a Nevada limited liability company with a principal place of
5 business located at 1463 Graystone Canyon Ave., Las Vegas, Nevada. The Debtor was formed
6 on April 26, 2018, and is managed by Paul Thomas (“Mr. Thomas”), who is also its sole
7 member. The Debtor owns two (2) parcels of improved real property in Clark County, Nevada,
8 one located at 375 North Stephanie Street, #3, Henderson, Nevada, which is currently leased to a
9 Tokyo Boys sushi bar and restaurant, and the second located at 120 Cassia Way, Henderson,
10 Nevada, which is a flex-use storage and warehouse space with a gross building area of 5,944
11 square feet (collectively, the “Properties”).

12 Relief Requested

13 2. The Debtor seeks court approval pursuant to section 327(a) of the Bankruptcy
14 Code to employ and retain L&Z as its attorneys in connection with the Chapter 11 Case. The
15 Debtor requests that the Court approve the retention and compensation of L&Z as its attorneys to
16 perform the legal services that will be necessary during its Chapter 11 Case in accordance with
17 L&Z’s normal hourly rates and normal reimbursement policies. L&Z requests that this approval
18 be granted retroactive to the Petition Date.

19 Retention

20 3. On or about February 12, 2021, L&Z entered into a Legal Representation
21 Agreement (the “Representation Agreement”) with the Debtor, a true and correct copy of which
22 is attached hereto as Exhibit 1. The Representation Agreement provides the current hourly rates
23 and current charges for certain expenses charged by L&Z.

24 4. L&Z’s attorneys have extensive experience in the field of bankruptcy and
25 business reorganizations under chapter 11 of the Bankruptcy Code. The attorneys employed by
26 L&Z are duly admitted to practice before this Court. Both bankruptcy partners of L&Z are
27 “AV” rated by Martindale Hubbell for their bankruptcy work, and Matthew C. Zirzow, Esq. is
28 Board Certified in Business Bankruptcy Law by the American Board of Certification. Further,

1 both attorneys have practiced bankruptcy for more than twenty (20) years and have extensive
 2 experience. Accordingly, L&Z has the necessary experience to deal effectively with the
 3 potential legal issues that may arise in the Debtor's Chapter 11 Case.

4 **Scope of Services**

5 5. L&Z's services are appropriate and necessary to enable the Debtor to execute its
 6 duties as the debtor and the debtor in possession faithfully and to implement the restructuring
 7 and reorganization of the Debtor. This Application proposes that L&Z be employed to render
 8 the following professional services:

9 (a) prepare on behalf of the Debtor, as debtor in possession, all necessary or
 10 appropriate motions, applications, answers, orders, reports, and other papers in
 11 connection with the administration of the Debtor's bankruptcy estate;

12 (b) to take all necessary or appropriate actions in connection with a sale,
 13 and/or a plan of reorganization and related disclosure statement, and all related
 14 documents, and such further actions as may be required in connection with the
 15 administration of the Debtor's estate;

16 (c) take all necessary actions to protect and preserve the Debtor's estate
 17 including the prosecution of actions on the Debtor's behalf, the defense of any actions
 18 commenced against the Debtor, the negotiation of disputes in which the Debtor is
 19 involved, and the preparation of objections to claims filed against the Debtor's estate; and

20 (d) perform all other necessary legal services in connection with the
 21 prosecution of the Chapter 11 Case.

22 6. It is necessary for the Debtor to employ attorneys to render the foregoing
 23 professional services. Subject to this Court's approval of the Application, L&Z is willing to
 24 serve as Debtor's general bankruptcy counsel to perform the services described.

25 **Disinterestedness**

26 7. L&Z and its individual attorneys are "disinterested persons" pursuant to sections
 27 327(a) and 101(14) of the Bankruptcy Code because they are not a creditor, equity security
 28 holder, or insider of the Debtor; they are not, and were not within two (2) years before the

Petition Date, a director, officer or employee of the Debtor; and they do not have an interest materially adverse to the interests of the estate or any class of creditors or equity security holders by reason of any direct or indirect relationship to, connection with, or interest in Debtor or for any other reason.

8. Mr. Thomas, who is the Debtor's sole manager and member, was the source of L&Z's retainer, which arrangement is necessary and appropriate based on the specific facts and circumstances of this case. See In re Lotus Props. LP, 200 B.R. 388 (Bankr. C.D. Cal. 1996); In re Metro. Env'tl. Inc., 293 B.R. 871 (Bankr. N.D. Ohio 2003); In re Kelton, 109 B.R. 641 (Bankr. D. Vt. 1989); Nev. R. Pro. Conduct 1.8(f). First, the terms of the fee arrangement have been timely and fully disclosed to the Debtor and the Court through this Application and the accompanying Larson Declaration, and at the very outset of the bankruptcy case. Second, the Debtor expressly consented to the fee arrangement by executing the Representation Agreement. Third, Mr. Thomas was provided with the opportunity to consult with his own independent counsel and understands that notwithstanding his payment of the retainer from personal funds, L&Z has a duty of undivided loyalty owed exclusively to the Debtor and the bankruptcy estate. Fourth, the factual and legal relationships between the Debtor, L&Z, and Mr. Thomas, and all terms of the Representation Agreement, including the payment of the retainer, were timely and fully disclosed.

9. Finally, there is no actual conflict, non-disinterestedness, or an impermissible potential conflict of interest apparent from the transaction at issue; rather, the interests of Mr. Thomas and the Debtor are fully aligned toward a successful reorganization. First, that Mr. Thomas willingly providing a retainer from his personal funds for the Debtor's attorneys' fees and costs in this case speaks volumes regarding his willingness to contribute to the reorganization effort, and only helps, and does not hinder, a potential reorganization. Second, such an arrangement is necessary given the specific facts and circumstances of this case. In particular, the Debtor's bankruptcy counsel was unwilling to undertake the representation without a sufficient retainer, and the Debtor itself lacked sufficient funds or access to funding to provide such funds. Finally, Mr. Thomas has also personally guaranteed the loans secured on the

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1 Properties involved, and thus his personal interests are aligned with the Debtor's in seeking a
 2 successful reorganization or sale of the Properties in question through this Chapter 11 Case.

3 10. Pursuant to Fed. R. Bankr. P. 2014(a), L&Z does not have any connections with
 4 the Debtor, its creditors, any other party in interest, their respective attorneys or accountants, the
 5 United States Trustee, or any person employed in the Office of the United States Trustee.
 6 Further, L&Z's representation will not be adverse to the Debtor's estate.

7 Compensation

8 11. As outlined in the Representation Agreement, the Debtor and L&Z have agreed to
 9 an original retainer in the amount of \$35,000.00. L&Z received \$30,000.00 from the Debtor pre-
 10 petition, with the remaining balance of \$5,000 to be paid to L&Z within one (1) week of the
 11 filing. Prior to the Petition Date, L&Z billed and was paid the sum of \$5,000.00 for prepetition
 12 professional fees and costs incurred therein, including the \$1,738.00 filing fee, thus leaving a
 13 remaining retainer in the amount of \$23,262.00 in trust to secure payment of future legal fees and
 14 costs of L&Z from and after the Petition Date (prior to receipt of the additional \$5,000.00), and
 15 as may be allowed by the Court pursuant to the normal fee application process.

16 12. As set forth in the Representation Agreement, the hourly rate of the partners at
 17 L&Z is \$550.00 per hour, and the hourly rate of paraprofessionals is \$220.00 per hour. The
 18 foregoing are L&Z's current customary hourly rates, and such rates are reasonable in light its
 19 experience and the complexity of the work involved. L&Z will also seek reimbursement of its
 20 expenses pursuant to its policies set forth in the Representation Agreement, which generally
 21 involve passing through all properly reimbursable expenses to the client at cost.

22 13. L&Z hereafter intends to apply to the Court for allowance of compensation and
 23 reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy
 24 Code, including but not limited to sections 330 and 331 of the Bankruptcy Code, the Federal
 25 Rules of Bankruptcy Rules, the Local Rules of Bankruptcy Practice for the United States District
 26 Court for the District of Nevada, and the Guidelines for Professional Compensation established
 27 by the Office of the United States Trustee, and further orders of this Court, for all services
 28 performed and expenses incurred after the Petition Date. It is further contemplated that L&Z

1 may seek interim compensation during this case as permitted by section 331 of the Bankruptcy
2 Code and Fed. R. Bankr. P. 2016.

3 I declare under penalty of perjury of the laws of the United States that these facts are true
4 to the best of my knowledge and belief.

5 Dated: February 22, 2021.

6 /s/ Zachariah Larson
ZACHARIAH LARSON

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